IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION

United States of America,	)	
	)	
Plaintiff,	)	**ORDER DENYING GOVERNMENT'S MOTION FOR REVOCATION OF CONDITIONAL RELEASE**
	)	
vs.	)	
	)	
Dusty Joan O'Berry,	)	Case No. C4-05-024-02
	)	
Defendant.	)	
	)	

On December 2, 2005, the court conducted a hearing on the government's Motion for Revocation of Conditional Release pursuant to 18 U.S.C. § 3148. AUSA Clare Hochhalter appeared on the government's behalf. Attorney Justin Hager appeared on the defendant's behalf.

The defendant is alleged to have violated the conditions of presentence release imposed by Chief Judge Daniel on September 13, 2006. First, she failed to report as directed for urine testing on at least four occasions. Second, she violated the condition that she not commit any violations of federal, state, tribal, or local law while on release. Third, she accessed Internet chat rooms using computers at the Minot Public Library despite the fact that she was prohibited from accessing the Internet from any location. Fourth, she accessed the Internet from her home after establishing Internet service through her local telephone company.

Based upon the evidence presented at the hearing, the court finds that there is probable cause to believe the defendant committed an offense–driving while under suspension–while on release. The court further finds that there is clear and convincing evidence that the defendant violated the conditions of her release in that she accessed the Internet without prior authorization and that she

consumed alcoholic beverages. Nevertheless, for the reasons articulated on the record, the court concludes that the defendant is not a flight risk and does not pose a serious danger to the community.

Accordingly, the court **DENIES** the government's Motion for Revocation fo Conditional Release and continues the defendant's release on the present conditions pending sentencing.

IT IS SO ORDERED.

Dated this 2nd day of December, 2005.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge